

MAIL TO:

STATE OF UTAH
DIVISION OF PURCHASING
3150 STATE OFFICE BUILDING, CAPITOL HILL
P.O. BOX 141061
SALT LAKE CITY, UTAH 84114-1061
TELEPHONE (801) 538-3026
www.purchasing.utah.gov

Invitation to BidSolicitation Number: **NO6557R**Due Date: **02/08/06 at 5:00 P.M.**

Date Sent: January 26, 2006

Goods and services to be purchased: **REVERSE AUCTION FOR TEN (10) TRUCKLOADS OF XEROGRAPHIC PAPER****Please complete**

Company Name		Federal Tax Identification Number	
Ordering Address	City	State	Zip Code
Remittance Address (if different from ordering address)	City	State	Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person		
Telephone Number (include area code)	Fax Number (include area code)		
Company's Internet Web Address	Email Address		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)	Days Required for Delivery After Receipt of Order (see attached for any required minimums)		
<p>The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u></p> <p>The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes _____ No _____. If no, enter where produced, etc. _____</p>			
Offeror's Authorized Representative's Signature		Date	
Type or Print Name		Position or Title	

STATE OF UTAH
DIVISION OF PURCHASING
GENERAL SERVICES

Invitation to Bid

Solicitation Number: NO6557R

Due Date: 02/08/06

Vendor Name:

Description
REVERSE AUCTION FOR TEN (10) TRUCKLOADS OF XEROGRAPHIC PAPER, PER THE ATTACHED SPECIFICATIONS.
QUESTIONS ON SPECIFICATIONS AND PURCHASING PROCESS CALL NANCY ORTON AT (801) 538-3148. COMMODITY CODE(S): 64521 AND 64533

Ship To: SALT LAKE CITY

FREIGHT CHARGES (if applicable)

SHIPPING POINT AND ZIP CODE	
<input type="checkbox"/> SHIPPING WEIGHT	
MODE OF TRANSPORTATION (Please check one) <input type="checkbox"/> Small package/Ground <input type="checkbox"/> LTL(Less than truck load) <input type="checkbox"/> Truckload <input type="checkbox"/> Air <input type="checkbox"/> Other (Please specify) NMFC Class# _____ NMFC Item # _____	
TOTAL PRICE LESS FREIGHT (FOB Origin)	\$
TOTAL PRICE INCLUDING FREIGHT (FOB Destination)	\$

INVITATION TO BID - INSTRUCTION AND GENERAL PROVISIONS

1. BID PREPARATION: (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing quotation. (c) Unit price will govern, if there is an error in the extension. (d) Delivery time is critical and must be adhered to as specified. (e) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the Division of Purchasing & General Services (DIVISION). If the vendor lists a trade name and/or catalog number in the bid, the DIVISION will assume the item meets the specifications unless the bid clearly states it is an alternate, and describes specifically how it differs from the item specified. All bids must include complete manufacturer's descriptive literature if quoting an equivalent product. All products are to be of new, unused condition, unless otherwise requested in this solicitation. (f) By signing the bid the vendor certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices quoted are correct. (g) This bid may not be withdrawn for a period of 60 days from bid due date.

2. SUBMITTING THE BID: (a) The bid must be signed in ink, sealed in a properly addressed envelope, and delivered to the DIVISION OF PURCHASING (DIVISION), 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 by the "Due Date and Time." **The "Bid Number" and "Due Date" must appear on the outside of the envelope.** (b) Bids, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section R33-3-109. (c) **Your bid will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of bids to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the bid for consideration and approval by the DIVISION. Upon award of the contract, the shipping terms will be F.O.B. Destination with all transportation and handling charges paid by the Contractor, unless otherwise specified by the DIVISION.

3. SOLICITATION AMENDMENTS: All changes to this solicitation will be made through written addendum only. Bidders are cautioned not to consider verbal modifications.

4. PROPRIETARY INFORMATION: Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for nondisclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any bid will not to be considered proprietary. Bids submitted may to be reviewed and evaluated by any persons at the discretion of the state.

5. SAMPLES: Samples of item(s) specified in this bid, when required by DIVISION, must to be furnished free of charge to DIVISION. Any item not destroyed by tests may, upon request made at the time the sample is furnished, to be returned at the bidder's expense.

6. WARRANTY: The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

7. DIVISION APPROVAL: Purchase orders placed, or contracts written, with the state of Utah, as a result of this bid, will not to be legally binding without the written approval of the director of the DIVISION.

8. AWARD OF CONTRACT: (a) the contract will to be awarded with reasonable promptness, by written notice, to the lowest responsible bidder that meets the specifications. Consideration will to be given to the quality of the product(s) to be supplied, conformity to the specifications, the purpose for which required, delivery time required, discount terms and other criteria set forth in this invitation to bid. (b) The bids are opened publicly in the presence of one or more witnesses. the name of each bidder, and the amount of the bid is recorded. Each bid, and the record, is open to public inspection. (c) The DIVISION may accept any item or group of items, or overall low bid. the DIVISION has the right to cancel this invitation to bid at any time prior to the award of contract. (d) The DIVISION can reject any and all bids. And it can waive any informality, or technicality in any bid received, if the DIVISION believes it would serve the best interest of the State. (e) Before, or after, the award of a contract the DIVISION has the right to inspect the bidder's premises and all business records to determine the holder's ability to meet contract requirements. (f) DIVISION does not guarantee to make any purchase under awarded contract(s). Estimated quantities are for bidding purposes only, and not to be interpreted as a guarantee to purchase any amount. (g) Utah has a reciprocal preference law which will to be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56-404 and 63-56-405, Utah Code Annotated. (h) Bid tabulations and awards are posted under "Vendor Info" at www.purchasing.utah.gov. (i) Multiple contracts may be awarded if the State determines it would be in its best interest.

9. ANTI-DISCRIMINATION ACT: The bidder agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also bidder agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

10. DEBARMENT: The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

11. ENERGY CONSERVATION AND RECYCLED PRODUCTS: The contractor is encouraged to offer Energy Star certified products or products that meet FEMP (Federal Energy Management Program) standards for energy consumption. The State of Utah also encourages contractors to offer products that are produced with recycled materials, where appropriate, unless otherwise requested in this solicitation.

12. GOVERNING LAWS AND REGULATIONS: All state purchases are subject to the Utah Procurement Code, Title 63 Chapter 56 U.C.A. 1953, as amended, and the Procurement Regulations as adopted by the Utah State Procurement Policy Board. These are available on the Internet at www.purchasing.utah.gov.

(Revision 5 Oct 2005 - ITB Instructions)

**Bid Number NO6557R – Reverse Auction
Consortium Purchase of Xerographic Copy Paper
February 2006**

The State of Utah, Division of Purchasing on behalf of EDPAC (Education Purchasing Advisory Council) consisting of school districts throughout the State of Utah, and other participating political subdivisions is soliciting bids for Xerographic Copy Paper. This purchase is based upon a reverse auction bid process.

Explanation of Reverse Auction

A reverse auction is a two-phase process consisting of a technical first phase in which bidders submit un-priced technical offers to be evaluated against the established criteria by the purchasing agency, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase submit price bids through a reverse auction. During the second phase a purchase order will be awarded in an open and interactive environment that includes the use of electronic media; bids will be opened and made public immediately. Bidders will be given opportunity to submit revised lower bids, until the bidding process is complete.

Paper Specifications

1. 8 ½" x 11", 20# White, Multi-purpose High Speed Xerographic Paper, premium #4, 84 or higher brightness, virgin or recycled. This paper is for use in all copy machines, laser printers and duplicators.
2. Long grain (running parallel to long edge of paper) with built in curl control
3. Packaging to include 10 reams/case, 500 sheets/ream, provided on standard pallets.
4. The quantity to be purchased is **10 truckloads**. This quantity may increase prior to the actual auction. Attached is a list of the delivery points and quantities.
5. Current acceptable brands include: Boise Cascade, Domtar, Georgia Pacific, Hammermill, Weyerhaeuser and Xerox. Additional brands may be acceptable. Paper bid may be subject to review and testing to determine quality and acceptability. Paper must be wrapped in paper that clearly identifies the mill brand and type. No generic or white wrapped paper will be accepted. No generic cartons will be accepted. Carton must clearly indicate Mill and type of paper and contents.

Paper Type and Performance

1. Vendors will be limited to submit pricing for only the brands of paper pre-qualified for. Bid must clearly specify brand(s) and type(s) of paper to be bid.

2. Paper must have excellent run-ability on all high-speed photocopiers, laser printers, printing equipment and duplicators. Paper must be free of all defects and must be guaranteed against flecking off of fibers.

3. Manufacturer must guarantee performance of paper in all printing applications including minimal jamming. Guarantee must include return of money if paper doesn't run well or replacement of any defective paper.

PHASE 1 – TECHNICAL OFFER (Due February 8, 2006 at 5:00 PM)

In order to be considered in the technical phase 1 - bidders must provide the following information and samples, no later than the due date and time specified. Do not respond with a cost at this time, Phase Two will be released to all technically qualified suppliers to provide price.

Brand(s) bid: _____

Mill location(s) from which paper will be supplied: _____
(actual mill location must be indicated. A statement of “various mills” is not acceptable).

Terms of the purchase are Net 30. If you offer a prompt payment term less than 30 days, please indicate _____. This will not be a consideration in determining the low bidder during the auction, but will be deducted from invoice.

Can delivery be made within the time parameters indicated on the attached delivery matrix (yes/no) _____ (If “No”, indicate exceptions on separate sheet of paper).

- Include with technical offer:**
- 1. Provide a technical specification sheet for each brand of paper bid.**
 - 2. Provide one ream of each brand of paper bid, if bidding other than brands indicated.**

Failure to provide the above requested information may result in disqualification.

Bidders may pre-qualify to provide more than one brand of paper. Only paper submitted with Phase One, and approved by the State of Utah, may be bid during the Phase Two auction. No off-shore foreign sheets will be considered.

PHASE TWO – REVERSE AUCTION PRICING

Bidders who are successful in the technical first phase will be contacted by The Division of Purchasing and RFP Depot regarding participation in the pricing second phase. Detailed information regarding the date, time, and how to participate in the pricing

phase will be discussed at the time of the contact. Contact may be made via email or telephone call.

Price bid in Phase Two is the delivered price (FOB destination) to each ordering entity.

Please Note: The successful bidder will be required to pay 1% of the total purchase price to RFP Depot (a third party auction company). 1% Payment is to be made to RFP Depot upon receipt of payment from each ordering entity.

Currently, the date for the reverse auction (phase two) is scheduled for **Friday, February 10, 2006 at 9:00 A.M. MT.**

Ordering Process:

Each ordering entity will place a separate purchase order for paper, per the quantity listed below, with the successful bidder. Contractor will be required to invoice each entity separately. Successful bidder must provide a copy of the purchase order from ordering entity to RFP Depot at the time purchase order is received.

This is a one time spot purchase. As such, only participating entities may purchase truckload quantities of paper as a result of this procurement. Non participating entities may not make purchases after the fact using this procurement. Vendors are prohibited from extending prices to non-participating entities under the terms of this procurement.

Questions regarding this purchase, please call Nancy Orton, State of Utah Division of Purchasing at (801) 538-3148 or Reed Taylor (801) 538-3709.

The attached matrix provides a list of participating agencies, number of truckloads of paper, and delivery time and locations.

Institution	# of Truck Loads (840 Cartons/load or 21 Pallets of 40 Cartons Each)	Delivery Time	Delivery Location
Jordan School District	5	1 Truck - February 06 2 Trucks - March 06 2 Trucks - April 06	Jordan School District Central Warehouse 225 East 9300 South Sandy, UT 84070 801-567-8704
Alpine School District	1	1 Truck - April 06	Alpine S D Warehouse 490 N. State Street Lindon, UT 84042 801-785-3412
Utah Valley State College	1	1 Truck - April 06	Utah Valley State Col 500 W 1200 S Orem, UT 84058 801-863-8429
Salt Lake City	1	1 Truck - April 06	Distribution Services 995 West Beardsley Place (2480 South) SLC, UT 84118-1519 801-578-8264
Duchesne School District	2	2 Trucks - March 06	150 West 450 South Duchesne, UT 84021 Don Hansen 435-738-1246

Total Number of Truckloads - 10

STATE OF UTAH • DIVISION OF PURCHASING

3150 State Office Building, Salt Lake City, Utah 84114-1061 Telephone (801) 538-3026, Fax (801) 538-3882

PURCHASE ORDER CONTRACT: TERMS AND CONDITIONS

ACCEPTANCE OF THIS PURCHASE ORDER BINDS THE CONTRACTOR TO ALL THESE TERMS AND CONDITIONS AND ALL THE TERMS, CONDITIONS AND PROVISIONS INCLUDED IN THE SOLICITATION THE DIVISION OF PURCHASING OFFERED RELATING TO THIS PURCHASE ORDER.

1. **AUTHORITY:** Provisions of this Purchase Order are pursuant to the authority set forth in the Utah Procurement Code, 63-56, Utah Code Annotated (U.C.A.) 1953, as amended, and the Utah State Procurement Rules and Regulations. Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.

2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this Purchase Order shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Purchase Order or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.

3. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this Contract for at least four years. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this Contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

4. **CONFLICT OF INTEREST AND PROCUREMENT ETHICS:** The Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, U.C.A., 1953, as amended. Further, Contractor certifies that it has not offered or given any gift or compensation prohibited by 67-16-5, U.C.A., 1953, as amended, to any officer or employee of the State of Utah to secure favorable treatment with respect to being awarded this Purchase Order.

5. **INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.

6. **INDEMNITY:** The Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.

7. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973; or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Contractor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

8. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.

9. **CANCELLATION OR REVISION:** This Purchase Order may be changed, revised or canceled only by the Division of Purchasing giving written notice to the Contractor.

10. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.

11. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.

12. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is **E33399**. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless sales tax is included as a separate line item on this purchase order.

13. **WARRANTY:** The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the Contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The Contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

14. **PUBLIC INFORMATION:** Contractor agrees that the Purchase Order will be a public document, and may be available for distribution. Contractor gives the State express permission to make copies of the Purchase Order and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.

15. **DELIVERY:** Orders must be shipped directly to ordering agency at address specified. Shipments must be made in accordance with the item(s) as described and priced on this order. Also, orders must be shipped F.O.B. Destination, Freight Prepaid, unless other shipping instructions are described in this order. **UNLESS INDICATED OTHERWISE, ALL ORDERS MUST BE SHIPPED PROMPTLY (WITHIN 5 WORKING DAYS), UPON RECEIPT OF ORDER.** Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.

16. **PRICING AND INVOICING:** Prices to be paid for item(s) ordered are the prices listed on this Purchase Order, which include all shipping and delivery charges, unless otherwise described on this order. **CONTRACTOR WILL, AFTER DELIVERY, PROMPTLY SUBMIT A CORRECT INVOICE (WITHIN 30 DAYS OF SHIPMENT OR DELIVERY OF SERVICES) TO THE ORDERING AGENCY.** Contractor agrees that the state has a right to adjust or return any invoice that reflects incorrect pricing. The Purchase Order number shall be listed on all invoices, freight tickets, and correspondence relating to the Purchase Order. Unless otherwise specified, payment terms shall be Net 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. Where prompt payment discounts apply, the period for computing a discount shall begin on the date a correct invoice, including any adjustment for damage or incomplete shipment, is received by the state. Discount will be taken on the total amount of the invoice. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card (major credit card).

17. **PATENTS, COPYRIGHTS, ETC.:** The Contractor shall release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.

18. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the Contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this Contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this Contract; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.

19. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

20. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and expressly approved in writing by the State Director of Purchasing. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Additional Terms and Conditions; 3. Contractor Terms and Conditions, if applicable.